



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-4070/1  
ARG:amn

## 2019 SENATE BILL 395

September 16, 2019 - Introduced by Senator LEMAHIEU, cosponsored by Representatives VORPAGEL and KATSMA. Referred to Committee on Government Operations, Technology and Consumer Protection.

1     **AN ACT** *to renumber and amend* 125.12 (5); *to amend* 125.32 (3) (c) and 125.68  
2           (4) (c) 4.; and *to create* 125.07 (3) (a) 17., 125.12 (5) (b), 125.26 (2v), 125.27 (5),  
3           125.32 (3) (e), 125.32 (3m) (k), 125.51 (3) (bv), 125.51 (5) (f) and 125.68 (4) (d)  
4           of the statutes; **relating to:** the issuance by the Department of Revenue of  
5           retail alcohol beverage permits for motor vehicle racetrack grounds,  
6           authorizing caterers to make retail sales of alcohol beverages on racetrack  
7           grounds, and hours for retail sales by brewers.

---

### ***Analysis by the Legislative Reference Bureau***

This bill authorizes the Department of Revenue to issue retail alcohol beverage permits for motor vehicle racetrack grounds. This bill also authorizes caterers to make retail sales of alcohol beverages on racetrack grounds. The bill further establishes hours during which brewers may not make retail sales of alcohol beverages.

Under current law, with limited exceptions, no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing the sale. Municipalities may issue retail Class "B" licenses authorizing the sale of fermented malt beverages (beer), and retail "Class B" licenses authorizing the sale of intoxicating liquor, which includes wine and distilled spirits, to consumers. Under certain circumstances, DOR may issue retail Class "B" and "Class B" permits authorizing the retail sale of beer and intoxicating liquor to consumers.

**SENATE BILL 395**

This bill authorizes DOR to issue retail Class “B” and “Class B” permits for racetrack grounds. The bill defines “racetrack grounds” as property consisting of at least 300 acres containing a motor vehicle racetrack at least four miles in length capable of hosting professional racing events, and includes any building or other structure on this property associated with the racetrack or with services provided in connection with events held at the racetrack. Under the bill, DOR may issue Class “B” and “Class B” permits, for locations within racetrack grounds, to the owner or operator of the racetrack grounds or to any person designated by the owner or operator of the racetrack grounds to operate premises located within the racetrack grounds. Class “B” and “Class B” permits issued by DOR for racetrack grounds authorize the retail sale of beer and intoxicating liquor at the location within the racetrack grounds specified in the permit, for possession and consumption anywhere within the racetrack grounds. Class “B” and “Class B” permits do not authorize the sale of beer and intoxicating liquor for consumption away from the racetrack grounds and do not authorize the sale of beer and intoxicating liquor at any designated camping area on racetrack grounds while the area is in use for camping. The bill contains an exception allowing underage persons to be present on those locations at racetrack grounds for which Class “B” or “Class B” permits are issued.

Current law generally requires a retail licensee to make retail sales of alcohol beverages only in a face-to-face transaction on the retail licensed premises, although the retail licensee may thereafter deliver and serve the alcohol beverages at another location. An exception allows a caterer to make retail sales off its licensed premises during a special event held at the National Railroad Museum in Green Bay or at the Heritage Hill State Park, if no retail license has been issued for this museum or park. A “caterer” is defined as a person who holds a restaurant license and who is in the business of preparing food and transporting it for consumption at gatherings, meetings, or events if the sale of food at each gathering, meeting, or event accounts for greater than 50 percent of the gross receipts of all of the food and beverages served at the gathering, meeting, or event.

This bill allows a caterer to make retail sales of alcohol beverages off its licensed premises on racetrack grounds, except at a designated camping area while the area is in use for camping and except on premises for which DOR has issued a retail permit for the racetrack grounds.

Current law allows a brewer holding a brewer’s permit to sell at retail, without a retail license, beer for consumption on or off the brewery premises or the brewer’s off-site retail outlet. If the brewer held an intoxicating liquor license on June 1, 2011, the brewer may also sell at retail, without a retail license, intoxicating liquor for consumption on the brewery premises or the brewer’s off-site retail outlet. Current law does not specify permissible hours of sale for these retail sales by a brewer.

Also under current law, with limited exceptions, Class “B” or “Class B” licensed premises must be closed between the hours of 2 a.m. and 6 a.m. on weekdays and between the hours of 2:30 a.m. and 6 a.m. on weekends. A municipal ordinance may not impose different closing hours. However, a Class “B” licensed premises may not sell beer for off-premises consumption between the hours of midnight and 6 a.m. and a municipality may impose more restrictive hours.

**SENATE BILL 395**

This bill prohibits a brewer from making retail sales of beer and intoxicating liquor during hours in which a Class “B” or “Class B” licensed premises must be closed. As with a Class “B” or “Class B” licensee, a municipality may not impose more restrictive hours for retail sales for on-premises consumption but may impose more restrictive hours for retail sales for off-premises consumption.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 125.07 (3) (a) 17. of the statutes is created to read:

2           125.07 **(3)** (a) 17. Premises for which a Class “B” permit is issued under s.  
3           125.27 (5) or a “Class B” permit is issued under s. 125.51 (5) (f).

4           **SECTION 2.** 125.12 (5) of the statutes is renumbered 125.12 (5) (a) and amended  
5           to read:

6           125.12 **(5)** (a) The department may, after notice and an opportunity for hearing,  
7           revoke, suspend, or refuse to renew any retail permit issued by it for the causes  
8           provided in sub. (4) and any other permit issued by it under this chapter for any  
9           violation of this chapter or ch. 139, except that, for ~~a violation of sub. (4) (ag) 6. with~~  
10          ~~respect to a license issued under s. 125.51 (4) (v) or a violation of s. 125.535 or~~  
11          139.035, the department shall revoke the license ~~or~~ permit.

12          (c) A revocation, suspension, or refusal to renew a permit under par. (a) or (b)  
13          is a contested case under ch. 227.

14          **SECTION 3.** 125.12 (5) (b) of the statutes is created to read:

15          125.12 **(5)** (b) The department may, after notice and an opportunity for hearing,  
16          revoke any permit issued under s. 125.27 (5) or 125.51 (5) (f) to a person designated  
17          by the owner or operator of racetrack grounds as provided in s. 125.27 (5) (b) or 125.51

**SENATE BILL 395****SECTION 3**

1 (5) (f) 2. if the person's designation has terminated or the owner or operator of the  
2 racetrack grounds has otherwise rescinded the person's designation.

3 **SECTION 4.** 125.26 (2v) of the statutes is created to read:

4 125.26 (2v) (a) Subject to pars. (b) and (c), and notwithstanding ss. 125.04 (3)  
5 (a) 3. and (9), 125.09 (1), and 125.32 (6) (a), in addition to the authorization specified  
6 in sub. (1), a Class "B" license issued under this section to a caterer also authorizes  
7 the caterer to provide fermented malt beverages, including their retail sale, on  
8 racetrack grounds, as defined in s. 125.27 (5) (a). Subject to pars. (b) and (c), and  
9 notwithstanding sub. (1) and s. 125.32 (6) (a), a caterer may provide fermented malt  
10 beverages under this paragraph at any location on racetrack grounds even though  
11 the racetrack grounds are not part of the caterer's licensed premises, as described  
12 under sub. (3) in the caterer's Class "B" license, and even if the racetracks grounds  
13 are not located within the municipality that issued the caterer's Class "B" license.  
14 A caterer that provides fermented malt beverages under this paragraph is subject  
15 to s. 125.32 (2) and (3) as if the fermented malt beverages were provided on the  
16 caterer's Class "B" licensed premises.

17 (b) A caterer may not provide fermented malt beverages under par. (a) at any  
18 designated camping area on racetrack grounds while the area is in use for camping.

19 (c) A caterer may not provide fermented malt beverages under par. (a) on any  
20 premises covered by a permit issued under s. 125.27 (5) or 125.51 (5) (f).

21 **SECTION 5.** 125.27 (5) of the statutes is created to read:

22 125.27 (5) PERMITS FOR RACETRACK GROUNDS. (a) In this subsection, "racetrack  
23 grounds" means real property consisting of at least 300 acres containing a motor  
24 vehicle racetrack at least 4 miles in length capable of hosting professional racing  
25 events, and includes any building or other structure on this property associated with

**SENATE BILL 395**

1 the racetrack or with services provided in connection with events held at the  
2 racetrack.

3 (b) The department may issue Class “B” permits for locations within racetrack  
4 grounds to any person that holds a valid certificate issued under s. 73.03 (50), that  
5 is qualified under s. 125.04 (5) and (6), and that is the owner or operator of the  
6 racetrack grounds or is designated by the owner or operator of the racetrack grounds  
7 to operate premises located within the racetrack grounds. Subject to par. (e), the  
8 permit authorizes the retail sale of fermented malt beverages on the premises  
9 covered by the permit, for consumption anywhere within the racetrack grounds. If  
10 the department issues more than one permit under this subsection for the same  
11 racetrack grounds, no part of the premises covered by a permit under this subsection  
12 may overlap with premises covered by any other permit issued under this subsection.

13 (c) Persons holding a permit under par. (b) may sell beverages containing less  
14 than 0.5 percent of alcohol by volume without obtaining a license under s. 66.0433.

15 (d) Subject to ss. 125.07 (3) (a) 17. and 125.32 (3) (c) and (3m) (k), all provisions  
16 of this chapter applying to Class “B” licenses apply to Class “B” permits issued under  
17 this subsection, except as follows:

18 1. A permit issued under this subsection does not authorize retail sales of  
19 fermented malt beverages for consumption off the racetrack grounds.

20 2. A permit issued under this subsection authorizes the retail sale of fermented  
21 malt beverages for possession and consumption off the premises where sold if the  
22 possession and consumption occurs within the racetrack grounds.

23 (e) A permit issued under this subsection does not authorize retail sales of  
24 fermented malt beverages at any designated camping area on racetrack grounds  
25 while the area is in use for camping.

**SENATE BILL 395****SECTION 5**

1 (f) The department shall establish a fee for a permit issued under this  
2 subsection in the amount of 50 percent of the fee for a permit issued under sub. (1).

3 **SECTION 6.** 125.32 (3) (c) of the statutes is amended to read:

4 125.32 (3) (c) Hotels and restaurants the principal business of which is the  
5 furnishing of food and lodging to patrons, bowling centers, movie theaters, painting  
6 studios, indoor golf and baseball facilities, racetrack grounds, as defined in s. 125.27  
7 (5) (a), indoor horseshoe-pitching facilities, curling clubs, golf courses and golf  
8 clubhouses may remain open for the conduct of their regular business but may not  
9 sell fermented malt beverages during the hours specified in par. (a).

10 **SECTION 7.** 125.32 (3) (e) of the statutes is created to read:

11 125.32 (3) (e) 1. A brewer holding a permit under s. 125.29 may not sell  
12 fermented malt beverages at retail under s. 125.29 (3) (e), or under s. 125.29 (3) (g)  
13 for consumption on the premises, or provide taste samples under s. 125.29 (3) (i),  
14 during the hours in which a Class "B" licensed premises is required under par. (a) to  
15 be closed. Brewery premises may remain open for the conduct of other brewery  
16 operations during these hours, but a brewer's off-site retail outlet may not remain  
17 open during these hours.

18 2. A brewer holding a permit under s. 125.29 may not sell fermented malt  
19 beverages at retail under s. 125.29 (3) (f), or under s. 125.29 (3) (g) for consumption  
20 off the premises, between 12 midnight and 6 a.m.

21 3. A municipality may, by ordinance, impose more restrictive hours than those  
22 provided in subd. 2., but may not impose different hours than those provided in subd.  
23 1.

24 **SECTION 8.** 125.32 (3m) (k) of the statutes is created to read:

**SENATE BILL 395**

1           125.32 **(3m)** (k) Premises for which a Class “B” permit is issued under s. 125.27  
2           (5).

3           **SECTION 9.** 125.51 (3) (bv) of the statutes is created to read:

4           125.51 **(3)** (bv) 1. Subject to subds. 2. and 3., and notwithstanding ss. 125.04  
5           (3) (a) 3. and (9), 125.09 (1), and 125.32 (6) (a), in addition to the authorization  
6           specified in par. (a) or (b) and in sub. (1) (a), a “Class B” license issued under sub. (1)  
7           to a caterer also authorizes the caterer to provide intoxicating liquor, including its  
8           retail sale, on racetrack grounds, as defined in s. 125.27 (5) (a). Subject to subds. 2.  
9           and 3., and notwithstanding pars. (a) and (b) and sub. (1) (a) and s. 125.32 (6) (a), a  
10          caterer may provide intoxicating liquor under this subdivision at any location on  
11          racetrack grounds even though the racetrack grounds are not part of the caterer’s  
12          licensed premises, as described under par. (d) in the caterer’s “Class B” license, and  
13          even if the racetrack grounds are not located within the municipality that issued the  
14          caterer’s “Class B” license. A caterer that provides intoxicating liquor under this  
15          subdivision is subject to s. 125.68 (2) and (4) as if the intoxicating liquor were  
16          provided on the caterer’s “Class B” licensed premises.

17          2. A caterer may not provide intoxicating liquor under subd. 1. at any  
18          designated camping area on racetrack grounds while the area is in use for camping.

19          3. A caterer may not provide intoxicating liquor under subd. 1. on any premises  
20          covered by a permit issued under s. 125.27 (5) or 125.51 (5) (f).

21          **SECTION 10.** 125.51 (5) (f) of the statutes is created to read:

22          125.51 **(5)** (f) *Permits for racetrack grounds.* 1. In this paragraph, “racetrack  
23          grounds” has the meaning given in s. 125.27 (5) (a).

24          2. The department may issue “Class B” permits for locations within racetrack  
25          grounds to any person that holds a valid certificate issued under s. 73.03 (50), that

**SENATE BILL 395****SECTION 10**

1 is qualified under s. 125.04 (5) and (6), and that is the owner or operator of the  
2 racetrack grounds or is designated by the owner or operator of the racetrack grounds  
3 to operate premises located within the racetrack grounds. Subject to subd. 4., the  
4 permit authorizes the retail sale of intoxicating liquor, by the glass and not in the  
5 original package or container, on the premises covered by the permit, for  
6 consumption anywhere within the racetrack grounds. If the department issues more  
7 than one permit under this paragraph for the same racetrack grounds, no part of the  
8 premises covered by a permit under this paragraph may overlap with premises  
9 covered by any other permit issued under this paragraph.

10 3. Subject to ss. 125.07 (3) (a) 17. and 125.68 (4) (c) 4., all provisions of this  
11 chapter applying to “Class B” licenses apply to “Class B” permits issued under this  
12 paragraph, except as follows:

13 a. A permit issued under this paragraph does not authorize retail sales of  
14 intoxicating liquor for consumption off the racetrack grounds.

15 b. A permit issued under this paragraph authorizes the retail sale of  
16 intoxicating liquor for possession and consumption off the premises where sold if the  
17 possession and consumption occurs within the racetrack grounds.

18 4. A permit issued under this paragraph does not authorize retail sales of  
19 intoxicating liquor at any designated camping area on racetrack grounds while the  
20 area is in use for camping.

21 5. The department shall establish a fee for a permit issued under this  
22 paragraph in the amount of 50 percent of the fee for a permit issued under par. (a).

23 **SECTION 11.** 125.68 (4) (c) 4. of the statutes is amended to read:

24 125.68 (4) (c) 4. Hotels and restaurants the principal business of which is the  
25 furnishing of food, drinks or lodging to patrons, bowling centers, movie theaters,

**SENATE BILL 395**

1 painting studios, racetrack grounds, as defined in s. 125.27 (5) (a), indoor  
2 horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may  
3 remain open for the conduct of their regular business but may not sell intoxicating  
4 liquor during the closing hours under subd. 1. or, with respect to the sale of  
5 intoxicating liquor authorized under s. 125.51 (3r) (a), under subd. 3.

6 **SECTION 12.** 125.68 (4) (d) of the statutes is created to read:

7 125.68 (4) (d) *Brewers*. 1. A brewer holding a permit under s. 125.29 may not  
8 sell intoxicating liquor at retail under s. 125.29 (3) (h) during the hours in which a  
9 “Class B” licensed premises is required under par. (c) 1. to be closed. Brewery  
10 premises may remain open for the conduct of other brewery operations during these  
11 hours, but a brewer’s off-site retail outlet may not remain open during these hours.

12 2. A municipality may not, by ordinance, impose different hours than those  
13 provided under subd. 1.

14 **SECTION 13. Effective date.**

15 (1) This act takes effect on the first day of the 3rd month beginning after  
16 publication.

17 (END)